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**TROY NORVELL**

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**TROY NORVELL,**  
Plaintiff,

vs.

**THE COUNTY OF SANTA CLARA; SANTA  
CLARA COUNTY SHERIFF'S  
DEPARTMENT, SHERIFF DEPUTY DOE  
1, SHERIFF DEPUTY DOE 2, SHERIFF  
DEPUTY DOE 3 and DOES 4 through 50,  
inclusive**  
Defendants.

Case No.

**COMPLAINT FOR:**

**(1) VIOLATION OF CIVIL RIGHTS (42  
U.S.C §1983);  
(2) VIOLATION OF CIVIL RIGHTS  
(CAL. CIVIL CODE §52.1);  
(3) ACT OF VIOLENCE MOTIVATED  
BY RACIAL BIAS (CAL. CIVIL CODE  
§51.7);  
(4) ASSAULT;  
(5) NEGLIGENCE  
(6) INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS**

**JURY TRIAL DEMANDED**

Plaintiff, Troy Norvell, hereby demands a trial by jury on all claims set forth  
herein, and allege as follows:

**INTRODUCTION**

1. This case concerns the physical attack of Troy Norvell by Deputies of the  
Santa Clara County Sheriff's Department while Plaintiff was in their custody.

**JURISDICTION**

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1343, because the action arises under 42 U.S.C. §1983. Venue is proper in this judicial district because the events giving rise to the claims occurred within the district.

**PARTIES**

4. Plaintiff, Troy Norvell is the victim of the wrongful conduct.

5. Defendant, the County of Santa Clara, is a municipal corporation located in the County of Santa Clara, State of California. The County of Santa Clara maintains a sheriff's department, which acts as its agent in the area of law enforcement and has custody and control of the county jail.

6. Defendants, SHERIFF DEPUTY DOE 1, SHERIFF DEPUTY DOE 2, SHERIFF DEPUTY DOE 3, are employed as a deputy sheriffs by the County of Santa Clara, and at all times relevant to the incident described in this complaint was acting in the course and scope of that employment and was acting under color of law.

7. On or about March 9, 2016, based on information and belief, Plaintiff filed a timely Government Tort Claim with the County of Santa Clara, Clerk of Board of Supervisors, in accordance with the provisions of Government Code § 910 et seq.

8. Upon information and belief, each of the parties named as a Defendant was acting as the agent, servant and employee of the remaining such Defendants and was acting within the course and scope of such agency and employment, with the knowledge, permission, and consent of each other and of the remaining Defendants, and for the benefit of all or one or more of those parties referred to as Defendants.

9. Plaintiff is informed and believes that when the Defendants perpetrated all or some of the acts, conduct and/or omissions alleged herein, each of them individually, or through their authorized agents, servants, employees, or both, knew of such acts, conduct and omissions, and/or knowingly acquiesced in, and/or aided and abetted, and/or knowingly accepted the benefits of the same. Plaintiff is therefore,

1 informed and believes that, by reason of the foregoing, Defendants are jointly and  
2 severally liable to Plaintiff for such damages suffered as alleged herein.

3  
4 **FACTS**

5 10. On or about March 1, 2016, Troy Novell was being transported to and  
6 from the Santa Clara County Superior Court by Santa Clara County Deputy Sheriffs so  
7 that he could make his court appearance set for that date, as Plaintiff was in the  
8 custody of the Santa Clara County Sheriff's Department and being housed in the Santa  
9 Clara County Jail located on Hedding Street, San Jose, California.

10 11. During the transportation, Plaintiff was shackled with another inmate who  
11 suffered from a foot illness and was unable to keep up with the line movement during  
12 the transportation. At a time when a co-shackled inmate, named "Freddie", was  
13 walking slower than the others in line, and at the time Plaintiff was shackled to Freddie,  
14 a deputy sheriff came up to Freddie and ordered him to speed up. Freddie informed  
15 the deputy that he had a foot illness and could not keep up with the group, whereupon  
16 the Deputy told him "fuck your feet". Freddie there upon responded to the Deputy by  
17 saying, "Fuck You". The Deputy then began choking Freddie, in a violent and  
18 dangerous manner, Plaintiff attempted to remove himself from this altercation but was  
19 unable to because he was still shackled to Freddie.

20 12. During the time Freddie was being violently choked by SHERIFF  
21 DEPUTY DOE 1, a second Deputy, SHERIFF DEPUTY DOE 2, came by and grabbed  
22 Plaintiff and with great force, slammed Plaintiff into a pillar extending from the wall  
23 resulting in harm and injury to Plaintiff.

24 13. Plaintiff did nothing to provoke this violent physical attack.

25 14. Plaintiff was placed in a cell and thereafter repeatedly verbally and in  
26 writing requested medical assistance for his injuries arising from the violent attack; his  
27 numerous requests were denied. Approximately one week elapsed and Plaintiff lost  
28

1 consciousness and fell, hit his head and was further injured; based on information and  
2 belief he remained unconscious in the cell for approximately 45 minutes. Plaintiff did  
3 not regain consciousness until he was in the hospital.

4  
5 15. As a further result of this unprovoked assault and battery upon Plaintiff,  
6 he has suffered long term pain, harm and discomfort; the fact that Plaintiff's request for  
7 immediate emergency medical assistance went without response, Plaintiff lost  
8 consciousness and suffered additional harm and loss because of a subdural  
9 hematoma and resulting brain damage.

10  
11 16. Plaintiff is informed and believes the assault and battery was recorded on  
12 hallway monitor video recording devices. He believes this because after the incident a  
13 third Deputy, SHERIFF DEPUTY DOE 3, confronted him and accused him of  
14 fabricating the incident and would not allow a transport of Plaintiff to a proper and  
15 competent medical facility; at that time Plaintiff suggested to the Deputy to view what  
16 was reflected on the video recording; the Deputy left and later returned ordering that  
17 Plaintiff be transported to the medical facility.

18  
19 17. Plaintiff is informed and believes that during this time, Defendants  
20 SHERIFFS DEPUTIES, exchanged threatening, offensive and insulting electronic  
21 communications and video recordings on their electronic devices, making threats and  
22 comments against Plaintiff, based on racial animus.

23  
24 18. Defendants and each of them were aware that Plaintiff did nothing to  
25 provoke or justify the assaultive conduct of the Deputies; further, Plaintiff did nothing to  
26 justify the delay in providing medical assistance.

1           19. Plaintiff is informed and believe and based thereon allege that, at all  
2 times relevant herein, the defendant Sheriff's Deputies had specific knowledge that  
3 they were acting unlawfully in the manner in which they assaulted, battered, restrained  
4 and incarcerated Plaintiff, including but not limited to: their objectively unreasonable  
5 use of excessive force in accomplishing the assault, and their knowing and deliberate  
6 withholding of much needed medical treatment. The Sheriffs conduct amounted to an  
7 extreme abuse of their positions of authority, a grossly negligent performance of their  
8 duties, and/or intentional misconduct.

10           20. The Sheriffs above-described wrongful, objectively unreasonable and  
11 excessive use of force, and withholding of medical treatment caused Plaintiff to suffer  
12 damages including significant physical injuries, resulting fear, pain, emotional distress,  
13 and exacerbation of spinal damage.

15           21. In addition to their vicarious liability as the employers of the individual  
16 Sheriffs, the Defendant County and its Sheriff's Office are directly liable to the Plaintiffs  
17 for their inadequacy of deputy training on the interaction with and custody of jail  
18 inmates, said failure to train amounting to a deliberate indifference to the rights of said  
19 persons, including the Plaintiff, as set forth more fully below.

21           22. Plaintiff is an African American male, who at the time was physically  
22 disabled.

#### 24                           **INCORPORATION OF PRELIMINARY ALLEGATIONS**

25           23. Unless the context clearly indicates otherwise, the preliminary allegations  
26 contained in paragraphs 1 through 22, inclusive, shall be deemed to be incorporated  
27  
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1 herein by reference, as though fully set forth at length in each and every cause of  
2 action set forth in this complaint.

3  
4 **FIRST CAUSE OF ACTION**

5 **[Action by Plaintiff, Troy Novell, Against Defendants, DOE I, DOE II, and**  
6 **DOE III for Violation of Civil Rights (42 U.S.C. §1983)]**

7 **PARTIES**

8 24. Plaintiff, Troy Novell, brings this claim against Defendants, DOES I, II  
9 and III.

10 **VIOLATIONS CHARGED**

11 25. On or about March 1, 2015, DEPUTIES DOES 1, 2 and 3 acted under  
12 color of law to deprive Troy Novell of certain clearly-established Constitutional rights,  
13 including the right to be free from unreasonable seizures of the person and the right to  
14 be free from excessive force by police officers, as guaranteed by the Fourth  
15 Amendment to the United States Constitution.

16 **DAMAGES**

17 26. As the direct and proximate result of the conduct of the Defendants, at all  
18 times herein mentioned, these Defendants knew, or should have known of Plaintiff's  
19 serious physical health condition; were deliberately indifferent to said condition; and  
20 failed to provide access to and delivery of medical or mental health intervention, care,  
21 and attention for said Plaintiff, causing harm and injury as set forth above.

22 27. As a legal cause of Defendants' deliberate indifference and conduct,  
23 Plaintiff was subjected to cruel physical abuse and resulting physical injury, racial  
24 animus, false and unlawful detention, deprivation of the necessary medical  
25 intervention, care, and treatment.

26 28. Each individual Defendant acted recklessly or with callous indifference to  
27 Plaintiff's serious medical health condition and to Plaintiffs' constitutional rights and  
28

1 should be assessed punitive damages.

2       29. The municipal defendant, in addition to its vicarious liability pursuant to  
3 Gov. Code, § 815.2(a), is directly liable for the federal civil rights violations stated  
4 herein due to its failure to train County law enforcement officers in interacting with jail  
5 inmates, including but not limited to failure to provide relevant training and education,  
6 to implement policies, procedures, and practices necessary to proper interaction with  
7 jail inmates, and to conduct adequate peace officer performance reviews,  
8 investigations, and corrections of previous violations. Said Defendant had a duty to  
9 provide such specialized training, education, etc., regarding jail inmates and persons,  
10 and its failure in this regard constitutes deliberate indifference to the constitutional  
11 rights of mentally ill persons. In perpetrating said failure to train, etc., the County acted  
12 recklessly, intentionally, or with gross negligence, such that deprivation of persons'  
13 constitutional rights was substantially certain to result.

14       30. By virtue of the provisions of 42 U.S.C.A. § 1988, Plaintiff is entitled to an  
15 award of reasonable attorney's fees and costs according to proof.

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17                   **SECOND CAUSE OF ACTION**  
18                   **[Action by Plaintiff, Troy Novell, Against All Defendants for Violation of**  
19                   **Civil Rights (California Civil Code §52.1)]**

20                   **PARTIES**

21       31. Plaintiff, Troy Novell, brings this claim against all Defendants.

22                   **VIOLATIONS CHARGED**

23       32. On or about March 1, 2015, DEPUTY DOES 1, 2, and 3 while in the  
24 course and scope of their employment with the County of Santa Clara, deprived Troy  
25 Novell of certain clearly-established Constitutional rights, including the right to be free  
26 from unreasonable seizures of the person and the right to be free from excessive force  
27  
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by police officers, as guaranteed by the Fourth Amendment to the United States Constitution, specifically the right to be free from unreasonable and excessive force, false and unlawful assault and battery, and intentional denial of necessary medical treatment. Defendants interfered with said Plaintiff's rights by intimidation, coercion, physical abuse, and abuse of authority, specifically by unlawfully employing objectively unreasonable, unnecessary, and excessive force on the Plaintiff, by knowingly and intentionally wrongfully assaulting and battering Plaintiff and by intentionally depriving the Plaintiff of necessary medical treatment.

### **DAMAGES**

32. As a proximate result of the actions of Defendants, Plaintiff suffered general and special damages, including physical harm, exacerbation of physical illness, and extreme emotional distress resulting from having been subjected to physical beating, and deprivation of necessary medical treatment by the defendant Sheriffs. The defendant Sheriffs' conduct was unlawful and undertaken by intimidation, abuse, and coercion that was unnecessary to and independent from the need to detain the Plaintiff for legal purposes and treatment.

33. The actions of the Defendants violated Civ. Code, § 52.1.

34. Defendants' violation of Civ. Code, § 52.1 entitles the Plaintiff to compensatory and exemplary damages pursuant to Civ. Code, §§ 52.1 and 52.

35. Defendants' violation of Civ. Code, § 52.1 entitles Plaintiff to reasonable attorney's fees pursuant to Civ. Code, § 52.1, subd. (h).

### **THIRD CAUSE OF ACTION**

**[Action by Plaintiff, Troy Novell for Committing An Act of Violence  
Motivated by Racial Bias (California Civil Code §51.7)]**

### **PARTIES**

36. Plaintiff, Troy Novell, brings this claim against all Defendants.



**VIOLATIONS CHARGED**

37. California Civil Code §51.7 provides that all Californians have the right to be free from violence committed against their person on account of their race or ethnicity.

38. On or about March 1, 2015, DEPUTY DOES 1, 2 and 3, while in the course and scope of their employment with the County of Santa Clara, deprived Troy Novell of certain clearly-established Constitutional rights, including the right to be free from unreasonable seizures of the person and the right to be free from excessive force by police officers, as guaranteed by the Fourth Amendment to the United States Constitution, specifically the right to be free from unreasonable and excessive force, false and unlawful assault and battery, and intentional denial of necessary medical treatment. Defendants interfered with said Plaintiff's rights by intimidation, coercion, physical abuse, and abuse of authority, specifically by unlawfully employing objectively unreasonable, unnecessary, and excessive force on the Plaintiff, by knowingly and intentionally wrongfully assaulting and battering Plaintiff and by intentionally depriving the Plaintiff of necessary medical treatment. The physical attack, assault, battery and delay in providing medical treatment was motivated in part by racial bias. Defendants, DOES I, II and III harbor an internal bias and racial animus against African-Americans, which causes them to perceive African-Americans like Troy Novell as being more likely to commit a criminal act and being more dangerous than persons of other races.

39. This sort of racial bias, while not uncommon, is nonetheless unacceptable - - particularly in the context of law enforcement. In this case, racial bias contributed to the physical attack and delayed medical treatment of Troy Novell by causing the deputies to perceive him as more of a threat than he actually was, resulting in the officers immediate, unprovoked and unjustified attack, assault, battery and delay in providing medical treatment to him. This act of violence committed on account of Troy Novell's race was a violation of Civil Code §51.7.

**DAMAGES**

40. As the direct and proximate result of the foregoing acts and omissions to act and the harm suffered by Plaintiff, Plaintiff suffered general and special damages, including physical harm, exacerbation of physical illness, and extreme emotional distress resulting from having been subjected to physical beating, and deprivation of necessary medical treatment by the defendant Sheriffs. The defendant Sheriffs' conduct was unlawful and undertaken by intimidation, abuse, and coercion that was unnecessary to and independent from the need to detain the Plaintiff for legal purposes and treatment.

41. As a further direct and proximate result of the foregoing, Plaintiff has been generally damaged in a sum to be established according to proof.

42. As a further direct and proximate result of the foregoing, Plaintiff has suffered special damages in a sum to be established according to proof.

43. Plaintiff is entitled to a statutory penalty in the amount of \$25,000, pursuant to Civil Code §52(b)(2).

**FOURTH CAUSE OF ACTION**

**[Action by Plaintiff Troy Novell Against All Defendants for Assault]**

**PARTIES**

44. Plaintiff Troy Novell brings this cause of action against all Defendants.

**VIOLATIONS CHARGED**

45. Plaintiff hereby incorporates all of the foregoing allegations of this complaint.

46. Defendants' conduct as alleged above, including but not limited to the defendant Sheriffs use of force to assault and batter Plaintiff, and delay providing needed emergency medical treatment, was unprivileged, without said Plaintiff's consent, in violation of the law, without justification, objectively unreasonable,

1 excessive, and constituted assault and battery for which defendant Sheriffs are  
2 individually liable.

3 47. As a proximate result of the foregoing, Plaintiff has sustained physical  
4 injuries, exacerbation of physical illness, and has incurred medical bills and other  
5 expenses, and has been injured as alleged in this complaint. These injuries have  
6 caused and will continue to cause Plaintiff significant pain and suffering, both mental  
7 and physical.

8 48. Plaintiff is informed and believes and thereon alleges that: Defendant  
9 Sheriffs knowingly, intentionally and willfully engaged in the foregoing conduct which  
10 they knew was certain to wrongfully injure said Plaintiff and deprive Plaintiff of his  
11 rights, and said Defendants knowingly, willfully and intentionally exposed said Plaintiff  
12 to cruel and unjust hardship which resulted from Defendants' wrongful conduct, all of  
13 which amounted to "oppression" within the meaning of Civil Code Section 3294(c)(2).  
14 In engaging in the foregoing conduct, said Defendants consciously disregarded the  
15 rights of the Plaintiff, all of which amounted to "malice" within Civil Code Section  
16 3294(c)(1). All of the foregoing conduct of said Defendants amounted to "despicable  
17 conduct" within the meaning of Civil Code Section 3294. By reason of the foregoing,  
18 Plaintiffs should be awarded punitive damages against individual defendant Sheriffs.

19 49. Defendant County is liable under this cause of action pursuant to Gov.  
20 Code, § 815.2(a), providing that a public entity may be held vicariously liable for the  
21 conduct of its employees acting within the scope of their employment to the extent that  
22 the employees themselves may be held liable.

### 23 DAMAGES

24 50. As the direct and proximate result of the conduct alleged herein, Plaintiff  
25 has been generally damaged in a sum to be established according to proof.

26 51. Plaintiff is entitled to an award of punitive damages as against the  
27 Defendants, because of their malicious conduct.

**FIFTH CAUSE OF ACTION**  
**[Action by Plaintiff Troy Novell Against All Defendants for Negligence]**

**PARTIES**

52. Plaintiff Troy Novell brings this cause of action against all Defendants.

**VIOLATIONS CHARGED**

53. Plaintiff hereby incorporates all of the foregoing allegations of this complaint and further charges that Defendants and each of them, failed to exercise reasonable care in discharging their duties, which caused harm, including but not limited to extreme emotional distress, to Plaintiff.

54. The force used by Defendants and each of them, was excessive and constitutionally unreasonable, and therefore they are also liable for the negligent acts that harmed Plaintiff.

**DAMAGES**

55. As a direct and proximate result of the foregoing, Plaintiffs have been generally damaged in a sum to be established according to proof.

**SIXTH CAUSE OF ACTION**  
**[Action by Plaintiff Troy Novell Against All Defendants for Intentional Infliction of Emotional Distress]**

**PARTIES**

56. Plaintiff Troy Novell brings this cause of action against all Defendants.

**VIOLATIONS CHARGED**

57. Plaintiff hereby incorporates all of the foregoing allegations of this complaint.

58. The Defendant Sheriffs' conduct as described herein was outrageous.

59. At the time that said Defendants engaged in the foregoing conduct, Defendants knew that their conduct was substantially certain to cause severe

1 emotional distress to Plaintiff. Said conduct of the Defendants did in fact cause severe  
2 emotional distress to the Plaintiff.

3 60. By reason of the foregoing, Plaintiff has incurred injuries and damages as  
4 hereinbefore alleged in this complaint.

5 61. Plaintiff is informed and believes and thereon alleges that: Defendant  
6 Sheriffs knowingly, intentionally and willfully engaged in the foregoing conduct which  
7 they knew was certain to wrongfully injure Plaintiff and deprive Plaintiff of his rights,  
8 and said Defendants knowingly, willfully and intentionally exposed Plaintiff to cruel and  
9 unjust hardship which resulted from Defendants' wrongful conduct, all of which  
10 amounted to "oppression" within the meaning of Civil Code Section 3294(c)(2). In  
11 engaging in the foregoing conduct, said Defendants consciously disregarded the rights  
12 of the Plaintiff, all of which amounted to "malice" within Civil Code Section 3294(c)(1).  
13 All of the foregoing conduct of said Defendants amounted to "despicable conduct"  
14 within the meaning of Civil Code Section 3294. By reason of the foregoing, Plaintiff  
15 should be awarded punitive damages against the defendant Sheriffs.

16 62. Defendant County is liable under this cause of action pursuant to Gov.  
17 Code, § 815.2(a), providing that a public entity may be held vicariously liable for the  
18 conduct of its employees acting within the scope of their employment to the extent that  
19 the employees themselves may be held liable.

20  
21 **PRAYER**

22 WHEREFORE, Plaintiff requests the following relief:

- 23 1. As against all Defendants, for compensatory and statutory damages  
24 according to proof,
- 25 2. As against the individual officer Defendants, for an award of punitive  
26 damages;
- 27 3. As against all Defendants, for an award of reasonable attorney's fees;
- 28 4. As against all Defendants, for costs of suit;

1           5.       For such other and further relief as the Court deems just and proper.

2  
3       Dated: December 21, 2016

JOHN KEVIN CROWLEY

*/s/ John Kevin Crowley*

\_\_\_\_\_  
John Kevin Crowley  
Attorney for Plaintiff